

## Senate Bill No. 140

### CHAPTER 529

An act to amend Section 51747.3 of, to amend, add, and repeal Section 48204 of, and to add Section 46601.5 to, the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2003. Filed  
with Secretary of State September 25, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 140, Denham. Education: school attendance requirements.

(1) Existing law required any 2 school districts entering into an agreement for interdistrict attendance to give consideration to the child care needs of the pupil and required any district that entered into an agreement for interdistrict attendance to allow the pupil to remain continuously enrolled in the school district of choice, subject to certain requirements. Existing law made these provisions operative until July 1, 2003.

This bill would reenact those provisions, would additionally prohibit a school district from requiring a pupil in kindergarten or any of grades 1 to 6, inclusive, attending the school pursuant to an interdistrict attendance agreement originally executed on or after the effective date of the act to reapply for interdistrict attendance in that school district, unless the pupil ceased to receive child care in the district, and would encourage a school district to allow any pupil to remain continuously enrolled in the school district of choice if the parent or guardian so chooses. This bill would extend the operative date of those provisions until July 1, 2007.

(2) Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements.

This bill would additionally authorize the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, as specified.

This bill would make those provisions authorizing the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade inoperative on and after July 1, 2007, and would repeal the provisions on January 1, 2008.

(3) This bill would make other technical and conforming changes.

(4) This bill would become operative only if AB 97 is enacted and takes effect.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 46601.5 is added to the Education Code, to read:

46601.5. (a) The governing boards of any two school districts that have been requested by a pupil's parent or legal guardian to enter into an agreement for interdistrict attendance pursuant to Section 46600 are encouraged to, in considering that request, give consideration to the child care needs of the pupil.

(b) The governing board of any school district that has entered into an agreement for the interdistrict attendance of a pupil based on that pupil's child care needs may not require those pupils in kindergarten or any of grades 1 to 6, inclusive, to reapply for an interdistrict transfer originally granted pursuant to an agreement executed on or after the effective date of this section unless the pupil ceases to receive child care in the district and is encouraged to allow any pupil to remain continuously enrolled in the school district of choice if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (b) of Section 48204.

(c) The governing board of any high school district whose feeder elementary school has entered into an agreement with another school district for the interdistrict attendance of a pupil based on that pupil's child care needs is encouraged to allow that pupil to continue to attend school through the 12th grade in the same district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive, of subdivision (b) of Section 48204.

(d) This section shall remain in effect only until July 1, 2007, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 2007, deletes or extends that date.

SEC. 2. Section 48204 is added to the Education Code, to read:

48204. (a) Notwithstanding Section 48200, a pupil is deemed to have complied with the residency requirements for school attendance in a school district, if he or she is any of the following:

(1) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.



An agency placing a pupil in a home or institution described in this subdivision shall provide evidence to the school that the placement or commitment is pursuant to law.

(2) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(3) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(4) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the caregiver's home, unless the school district determines from actual facts that the pupil is not living in the caregiver's home.

(5) A pupil residing in a state hospital located within the boundaries of that school district.

(b) A school district may deem a pupil as having complied with the residency requirements for school attendance in the school district if one or both the parents or legal guardians of the pupil is employed within the boundaries of that school district.

(1) This subdivision does not require the school district within which the parents or guardians of a pupil are employed to admit the pupil to its schools. Districts may not, however, refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the parents or guardians of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (1), (2), or (3) is encouraged to identify, and communicate in writing to the parents or guardians of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons therefor, are accurately



recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision is calculated pursuant to Section 46607.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever amount is greater.

(C) For any district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever amount is greater.

(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one or both parents of a pupil is employed, or where the legal guardian of the pupil is employed, the pupil does not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses and if one or both of the pupil's parents or guardians continues to be employed by an employer situated within the attendance boundaries of the school district, subject to paragraphs (1) to (6), inclusive.

(c) This section is inoperative on and after July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 48204 of the Education Code, as amended by Section 19.5 of Chapter 299 of the Statutes of 1997, is amended to read:

48204. Notwithstanding Section 48200, a pupil is deemed to have complied with the residency requirements for school attendance in a school district, if he or she is:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under



Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in the home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

(d) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the caregiver's home, unless the school district determines from actual facts that the pupil is not living in the caregiver's home.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) This section is operative on and after July 1, 2007.

SEC. 4. Section 51747.3 of the Education Code is amended to read:

51747.3. (a) Notwithstanding any other provision of law, a local educational agency, including, but not limited to, a charter school, may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the agency has provided any funds or other thing of value to the pupil or his or her parent or guardian that the agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to his or her parent or guardian.

(b) Notwithstanding paragraph (1) of subdivision (d) of Section 47605 or any other provision of law, community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.

(c) The Superintendent of Public Instruction shall not apportion funds for reported average daily attendance, through full-time



independent study, of pupils who are enrolled in school pursuant to subdivision (b) of Section 48204.

(d) In conformity with Provisions 25 and 28 of Section 2.00 of the Budget Act of 1992, this section is applicable to average daily attendance reported for apportionment purposes beginning July 1, 1992. The provisions of this section are not subject to waiver by the State Board of Education, by the State Superintendent of Public Instruction, or under any provision of Part 26.8 (commencing with Section 47600).

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maintain the status of existing law governing school district attendance, it is necessary that this act take effect immediately.

SEC. 6. This act shall become operative only if Assembly Bill 97 is enacted and takes effect.

